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E-FILED - 7/10/08

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(San Jose Division)

JEFFREY GIPPETTI, MANUAL
ALVARADO, THOMAS DAVID
DANBURY, THOMAS ROBERT
GAZAY,

Plaintiffs,

vs.

UNITED PARCEL SERVICE, INC., a
corporation, et al.,

Defendants.

CASE NO. C-07-00812 RMW

**STIPULATION TO EXTEND TIME TO
FILE MOTION TO COMPEL
DISCOVERY RESPONSES AND
~~PROPOSED~~ ORDER**

1 WHEREAS Defendant United Parcel Service, Inc. (UPS) served Plaintiff Jeffrey
2 Gippetti ("Gippetti") via U.S. mail with its First Set of Interrogatories and its Second Request for
3 Production of Documents ("UPS's discovery requests") on May 28, 2008;

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5 WHEREAS, pursuant to the Federal Rules of Civil Procedure, Gippetti's response
6 to UPS's discovery requests was due on June 30, 2008;

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8 WHEREAS, on July 3, 2008, UPS's counsel contacted Gippetti's counsel
9 regarding the status of UPS's discovery requests since UPS had not yet received any response;

10
11 WHEREAS, on July 7, 2008, Gippetti's counsel contacted UPS's counsel and
12 stated that he had lost UPS's discovery requests and asked that UPS resend its discovery requests.
13 Gippetti's counsel also requested additional time to respond to UPS's discovery requests and
14 stated that Gippetti would respond to UPS's discovery requests as soon as possible;

15
16 WHEREAS, the fact discovery cut-off in this lawsuit is June 30, 2008.
17 Accordingly, pursuant to Northern District of California Local Rule 26-2, the deadline to file a
18 motion to compel is July 10, 2008 (seven days after the fact discovery cut-off); and

19
20 WHEREAS, consistent with the conferral requirements of Federal Rule of Civil
21 Procedure 37(a)(1) and Northern District of California Local Rule 37-1(a) and to avoid a likely
22 unnecessary motion to compel, the parties agree to extend the deadline for UPS to file a motion to
23 compel.

24
25 IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES THAT the
26 deadline for UPS to file a motion to compel be extended from July 10, 2008, to seven days after
27 UPS receives Gippetti's response to UPS's discovery requests.
28

1 DATED: July 8, 2008

PAUL, HASTINGS, JANOFSKY & WALKER LLP

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3 By: Laura B. Scher
4 LAURA B. SCHER

5 Attorneys for Defendant
6 UNITED PARCEL SERVICE, INC.

7 DATED: July __, 2008

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9 _____
M. VAN SMITH

10 Attorney for Plaintiffs
11 JEFFREY GIPPETTI, MANUAL ALVARADO,
12 THOMAS DAVID BANBURY, AND THOMAS
13 ROBERT GAZAY
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1 DATED: July __, 2008

PAUL, HASTINGS, JANOFSKY & WALKER LLP

3 By: _____

4 LAURA B. SCHER

5 Attorneys for Defendant
6 UNITED PARCEL SERVICE, INC.

7 DATED: July 8, 2008

8 

9 M. VAN SMITH

10 Attorney for Plaintiffs
11 JEFFREY GIPPETTI, MANUAL ALVARADO,
12 THOMAS DAVID BANBURY, AND THOMAS
13 ROBERT GAZAY
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DECLARATION OF LAURA B. SCHER

I, Laura B. Scher, declare:

1. I am an attorney at law licensed to practice before the Courts of the State of California and before this Court. I am an associate with the law firm of Paul, Hastings, Janofsky & Walker LLP ("Paul Hastings"), attorneys for Defendant United Parcel Service, Inc. ("UPS"). If called as a witness, I would and could competently testify thereto to all facts within my personal knowledge except where stated upon information and belief.

2. On May 28, 2008, Paul Hastings' staff acting under my direction served M. Van Smith ("Smith"), counsel of record for Plaintiff Jeffrey Gippetti ("Gippetti"), via U.S. mail with both Defendant United Parcel Service, Inc.'s First Set of Interrogatories Propounded on Plaintiff Jeffrey Gippetti and Defendant United Parcel Service, Inc.'s Second Request to Plaintiff Jeffrey Gippetti to Produce Documents for Copying and Inspection ("UPS's discovery requests").

3. On July 3, 2008, I left a voice message for and sent an email to Smith regarding the status of UPS's discovery requests since UPS had not yet received any response.

4. On July 7, 2008, Smith called me to discuss the status of UPS's discovery requests. He stated that he had lost UPS's discovery requests and asked that I resend the discovery requests. Smith also requested additional time to respond to UPS's discovery requests and stated that Gippetti would respond to UPS's discovery requests as soon as possible

5. On July 7, 2008, I sent Smith a copy of UPS's discovery requests via email.

6. There is good cause to extend the time for the deadline for UPS to file a motion to compel from July 10, 2008, to seven days after UPS receives Gippetti's response to UPS's discovery requests, because it is consistent with the conferral requirements of Federal Rule of Civil Procedure 37(a)(1) and Northern District of California Local Rule 37-1(a) and will avoid a likely unnecessary motion to compel.

7. The only previous time modifications in the case were (1) the continuance of the hearing on Defendant's Motion for Severance of Actions, or in the Alternative, For Separate Trials from September 7, 2007, to October 5, 2007; (2) the continuance of a Case Management Conference from October 5, 2007, to January 4, 2008; (3) the continuance of the hearing on Plaintiff's Motion to Compel the Production of Documents from April 25, 2008, to April 29, 2008; and (4) the Court's continuance of the hearing on Plaintiff's Motion for Sanction for Spoliation of Evidence from June 24, 2008, to July 15, 2008.

8. The parties do not request that the extension of the deadline for UPS to file a motion to compel alter the remaining schedule for the case.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed this 8 day of July, 2008, at San Francisco, California.

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LAURA B. SCHER

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 7/10/08

Ronald M. Whyte

HON. RONALD M. WHYTE

LEGAL_US_W # 59379298.1